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2823

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July 11, 2003

Mail Stop Non-Fee Amendment
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Re: Applicant(s): Shih-Yuan Wang; Yong Chen
Assignee: Lumileds Lighting, U.S., LLC
Title: Growing A Low Defect Gallium Nitride Based Semiconductor
Serial No.: 10/047,504
Examiner: Neal Berezny
Docket No.: M-10937-1C US
Filed: October 26, 2001
Group Art Unit: 2823

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Dear Sir:

Transmitted herewith are the following documents in the above-identified application:

- (1) Return Receipt Postcard;
- (2) This Transmittal Letter (1 page);
- (3) Response to Restriction Requirement (2 pages).

- ☒ No additional fee is required.
☐ The fee has been calculated as shown below:

<input checked="" type="checkbox"/>	Conditional Petition for Extension of Time: If an extension of time is required for timely filing of the enclosed document(s) after all papers filed with this transmittal have been considered, an extension of time is hereby requested.	\$	0.00
<input type="checkbox"/>	Please charge our Deposit Account No. 502226 in the amount of	\$	0.00
<input checked="" type="checkbox"/>	The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account 19-2386. Deposit Account No. 502226.		
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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on 7/11/03

R. Leiterman 7/11/03
Attorney for Applicant(s) Date of Signature

Respectfully submitted,

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Shih-Yuan Wang; Yong Chen
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San Jose, California
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RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

Applicants respectfully request reconsideration of the restriction requirement mailed July 2, 2003. The Examiner states that the inventions in groups I and II are distinct for the following reasons:

In the instant case, the product as claimed can be made by another and materially different process. Instead of depositing and forming a trench in the first GaN layer, one could form a step, and then deposit a semiconductor layer, not on the sidewall of the step, then deposit a second GaN layer, then etch part of the second GaN layer not near the sidewall, thus creating a second sidewall, form a semiconductor spacer on the second sidewall on the remaining second GaN layer, then deposit a first GaN layer in the remaining removed step region, leaving the spacer and the remaining part of the second GaN layer, perform a CMP, form a semiconductor cap in the regions outside the remaining second GaN layer.

Applicants respectfully submit that the alternate process described above by the Examiner would not result in a "gallium nitride based semiconductor material . . . grown by a method comprising . . . forming a trench in said first gallium nitride based semiconductor layer" as recited in product claim 29. In fact, only the method claimed in claim 13 would

result in the device of claim 29, since claim 29 recites the same method elements as claim 13.

Accordingly, since the product of claim 29 cannot be made by another and materially different process, according to MPEP 806.05(f) restriction is not proper.

Should Applicants' request for reconsideration not result in withdrawal of the restriction requirement, Applicants provisionally elect the claims in Group I (Claims 13-28), drawn to a method of making a GaN based semiconductor material for light emitting devices, for further prosecution in the above patent application and reserve the right to prosecute the remaining claims in a divisional application.

Should the Examiner have any questions, the Examiner is invited to call the undersigned at (408) 382-0480.

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R. V. Leiterman 7/11/03
Attorney for Applicant(s) Date of Signature

Respectfully submitted,

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